IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16045 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HALPATI SEVA SANGH - Petitioner(s)

Versus

STATE OF GUJARATR & 2 - Respondent(s)

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Appearance :

MR MK VAKHARIA for Petitioner(s) : 1,
MS FALGUNI PATEL, AGP for Respondent(s) : 1,2,3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 31/01/2006

ORAL JUDGMENT

1.Rule. Learned AGP Ms. Falguni Patel waives service of notice of rule on behalf of the respondents. At the request of the learned advocates appearing for the parties, the petition is taken up for final disposal

today.

2. In the present petition, the petitioner has challenged a communication dated 14-07-2005 made by the respondent no.2-Deputy Commissioner.

3. The petitioner was running an Ashram Shala. The recognition of the Ashram Shala was cancelled by the State Government on certain grounds. The petitioner therefore, approached this Court by filing Special Civil Application No.1320/2003. This petition came to be disposed of by an order dated 14-08-2003 permitting the petitioner to apply for fresh recognition, since the learned advocate for the petitioner submitted before the Court that the petitioner is in a position to satisfy the authority about the fulfillment of the requirements of Ashram Shala. It was provided that if such approach is made, the authority will decide the same as per the present policy regarding granting of fresh recognition. Consequently, the petitioner applied. However, the request of the petitioner was turned down by communication dated 27-04-2004 stating that the petitioner was required to apply afresh and not make mere representation. The petitioner therefore,

once again approached this Court by filing Special Civil Application No.4061/2005. This petition was disposed of on 22-03-2005. The Court permitted the petitioner to withdraw the petition for making a fresh application for fresh recognition. Accordingly, the petitioner applied afresh on 26-04-2005. This application came to be turned down by impugned communication dated 14-07-2005. In the impugned order, the learned advocate for the petitioner rightly points out that no reasons are indicated for rejecting the the request of the petitioner. The petitioner had made a detailed representation and also filed an application for grant of fresh recognition as per the desire of the Court, such application was required to be decided on its merits. Admittedly, the respondents have rejected the application without elaborate reasons. Though some reasons are sought to be suggested in support of the order by filing affidavit in reply, learned AGP Ms. Falguni Patel under the instructions submitted that no such reasons are available on file. Therefore, it would appear that request of the petitioner for grant of fresh recognition has not received its due consideration on merits. Whatever be the old chapter, the petitioner was permitted to apply afresh which

application was required to be decided on its merits. The respondents failed to do so. The impugned communication dated 14-07-2005 is therefore, quashed. The application of the petitioner for fresh recognition shall be considered and decided in accordance with law expeditiously and preferably within a period of three months from the date of receipt of a copy of this order. The decision taken by Government shall be communicated to the petitioner.

4.With these direction, the petition is disposed of. Rule is made absolute to the above limited extent with no order as to costs.

(Akil Kureshi,J.)

(raghu)